

GEOSEARCH, INC.

IBLA 80-242, 80-243

Decided July 3, 1980

Appeal from decisions of the Wyoming State Office, Bureau of Land Management, dismissing protests against issuance of oil and gas leases W 49929 and W 53309.

Affirmed.

1. Oil and Gas Leases: Applications: Drawings

Protests against the issuance of oil and gas leases are properly dismissed where the protestant fails to show with competent evidence that there have been violations of the leasing regulations, that the successful drawees should have been disqualified, or that the leases should have been cancelled.

2. Regulations: Binding on the Secretary -- Regulations: Force and Effect as Law

The Secretary of the Interior is bound by his duly promulgated regulations and such regulations have the force and effect of law.

APPEARANCES: Melvin E. Leslie, Esq., Salt Lake City, Utah, for appellant

OPINION BY ADMINISTRATIVE JUDGE FISHMAN

Geosearch, Inc. appeals from decisions dated November 26 and 27, 1979 of the Wyoming State Office, Bureau of Land Management (BLM), dismissing its protests against issuance of oil and gas leases W 49929 and W 53309.

1/ Because of similarities of facts and issues these cases have been consolidated for decision.

By letter agreements appellant acquired the interests of the individuals whose drawing entry cards were drawn with second priority. Appellant's standing as successor second priority drawee triggers its protests in these matters.

BLM dismissed the protests on the ground that it had returned the drawing entry cards (DEC's) of the second and third priority drawees, that those persons had filed no appeals, and that therefore appellant could have no interest in these leases. The decisions state that inquiry revealed no violation of the leasing regulations in connection with issuance of the leases to the first priority drawees, as alleged in appellant's protests. BLM further held that appellant lacked standing to file either a contest or protest in these matters.

Appellant contends that the return of the second and third priority entry cards cannot deprive it of any rights it may have in the leases. Appellant questions BLM's diligence in returning the cards intimating that the due process may not have been observed in all cases. In this connection, appellant suggests that 43 CFR 3112.2-1(a)(4), providing for the return of DEC's to unsuccessful drawees, is unconstitutional. Appellant also argues that BLM erred in holding that it could file neither a contest nor a protest, and in concluding that no violations of the filing regulations occurred. Appellant states that if filing violations occurred the leases should be cancelled and awarded to Geosearch, Inc.

[1, 2] The disposition of these appeals does not turn on the classification of appellant's challenges either as contests or protests, but on whether the allegations of improprieties are well founded. We conclude they are not. Appellant has not shown that it has been deprived of any rights it may have had through action by BLM. Appellant challenged after the fact the issuance of these leases. BLM, after making appropriate inquiries from the parties concerned, concluded that no violations of law or regulation existed, that appellant had demonstrated none, and therefore dismissed the protests. Appellant's arguments are in the realm of conjecture and speculation. On appeal it has presented no competent evidence of violations of the leasing regulations, which, if established, would disqualify the successful drawees or require cancellation of the leases. Consequently, the second drawees' offers need not be considered. Geosearch, Inc., 41 IBLA 291 (1979); Geosearch, Inc., 40 IBLA 267 (1979). Since the leases in issue have been assigned, even assuming failure to meet

^{2/} We do not discuss the question whether a contest or protest could lie in the case at bar. However, we note that 43 CFR 4.450.2 permits protest to be filed "by any person to any action proposed to be taken in any proceeding before the Bureau." (Emphasis supplied.) We also note that appellant's statement of reasons (p. 8) negates its interest in filing a contest.

regulatory requirements, it appears that the leases are held by bona fide purchasers for value and are thus immune to the kind of attack appellant makes in the cases at bar, see 30 U.S.C. § 184(h)(2) (1976).

Appellant's allegation regarding the constitutionality of 43 CFR 3112.2-1(a)(4) is without merit. In any event, the Board of Land Appeals has no authority to declare invalid duly promulgated regulations. John F. Anderson, 46 IBLA 123 (1980); Exxon Co., U.S.A., 45 IBLA 313 (1980).

We conclude that the protests were properly dismissed.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decisions appealed from are affirmed.

Frederick Fishman
Administrative Judge

We concur:

Anne Poindexter Lewis
Administrative Judge

Douglas E. Henriques
Administrative Judge

